

**MINUTES OF THE  
STATE WATER DEVELOPMENT COMMISSION**  
Tuesday, October 20, 2015 – 3:04 p.m. – Room 30 Building House

**Members Present:**

Sen. Margaret Dayton, Senate Chair  
Rep. Keith Grover, House Chair  
Sen. David P. Hinkins  
Sen. Jani Iwamoto  
Sen. Scott K. Jenkins  
Sen. Kevin T. Van Tassell  
Rep. Joel K. Briscoe  
Rep. Melvin R. Brown  
Rep. Susan Duckworth  
Rep. Gage Froerer  
Rep. Don L. Ipson  
Rep. Kay L. McIff  
Rep. Michael E. Noel  
Mr. Tage Flint  
Mr. Jay Mark Humphrey  
Ms. Voneene Jorgensen  
Mr. Alan Matheson

Mr. Darrell H. Mensel  
Mr. Warren Peterson  
Exec. Dir. Amanda Smith  
Exec. Dir. Mike Styler  
Mr. Ron Thompson

**Members Absent:**

Comm. LuAnn Adams  
Mr. Dallin W. Jensen  
Mr. Joseph Paulick  
Mr. Gene Shawcroft  
Comm. David Ure  
Mr. Boyd Workman

**Staff Present:**

Mr. J Brian Allred, Policy Analyst  
Ms. RuthAnne Frost, Associate General Counsel  
Ms. Katie LeFevre, Legislative Assistant

**Note:** A list of others present, a copy of related materials, and an audio recording of the meeting can be found at [www.le.utah.gov](http://www.le.utah.gov).

**1. Committee Business**

Chair Grover called the meeting to order at 3:05 p.m. Comm. Adams, Mr. Jensen, and Mr. Ure were excused from the meeting.

**MOTION:** Sen. Dayton moved to approve the minutes of the August 18, 2015, meeting. The motion passed unanimously with Sen. Jenkins, Rep. Briscoe, Rep. Duckworth, Rep. McIff, and Rep. Noel absent for the vote.

**2. Update of Proposed Federal Water Regulations**

Mr. Randy Parker, Chief Executive Officer, Utah Farm Bureau, distributed "Farm Bureau Waters of the United States Update" to the commission and presented an update on the "Waters of the United States" ruling. He explained that the new rule redefining "Waters of the United States" is expansive. He informed the committee of legal action taken to oppose the rule and its current status. Mr. Parker answered questions from the commission.

Mr. Parker shared an update on Forest Service Claims and the Groundwater Resources Management Directive. He explained that the Forest Service Claims and the Groundwater Resources Management Directive are attempting to put state water under federal control. He informed the committee of the current congressional action. Mr. Parker answered questions from the commission.

### **3. 2015 General Session S.B. 126 "Water Amendments"**

Sen. Dayton presented S.B. 126 "Water Amendments" to the commission. She explained that the bill was presented last year, however, there were several concerns and insufficient time to address them. She informed the committee that the bill will be updated. She invited Mr. Steven Clyde, Director, Clyde Snow, to discuss the bill.

Mr. Clyde discussed Utah's growing population and the availability of water. He explained that in the current code the state engineer can reject an application to appropriate water or change the use of water if it is detrimental to the public welfare. He explained that "public welfare" is undefined, which means a state engineer or the courts could decide what public welfare means and if it is properly implemented.

Mr. Clyde explained the context and history of the issue. He explained that the definition will help the state engineer make better decisions. He identified situations where the specific definition will be helpful. Mr. Clyde answered questions from the commission regarding the role of the state engineer and water appropriations.

After commission discussion, Sen. Dayton invited commission members to email her their additional input regarding "Water Amendments."

### **4. Draft Legislation – Water Law Protected Purchaser Amendments**

Sen. Dayton presented draft legislation "Water Law – Protected Purchaser Amendments" (2016FL-0366/005). She invited Mr. Clyde to discuss the legislation.

Mr. Clyde explained that a change was made years ago to the Uniform Commercial Code regarding the replacement of lost shares certificates in mutual water companies. He explained that indemnified surety bonds were the standard at the time, however, the bonds could no longer be issued when the value of water rights increased. In response he said that the Legislature adopted an alternative procedure on how to replace lost shares. He explained that legislation had loose qualifications for a protected purchaser, which "Water Law – Protected Purchaser Amendments" addresses. The change gives additional qualifications to who is considered a protected purchaser.

Mr. Clyde answered questions from the commission.

**MOTION:** Sen. Dayton moved to approve draft legislation "Water Law – Protected Purchaser Amendments" (2016FL-0366/005). The motion passed unanimously with Rep. Froerer absent for the vote.

### **5. Peer Review of Scientifically Established Water Quality Regulations and Standards**

Mr. Leland Meyers, District Manager, Central Davis Sewer District, explained the sewer district's desire to implement a peer review of scientifically established water quality regulations and standards. He explained that the ecosystems where waste is discharged are studied in order to decide if the right decisions have been made. He informed the committee of current and future research projects. He explained the reasons for implementing a peer review.

Mr. Meyers discussed the Environmental Protection Agency's current review and regulation of water nutrients. He explained that the removal of the last 10% of pollutants costs more than the removal of the

first 90% of pollutants. He outlined the peer review process and discussed the value of peer review. Mr. Meyers answered questions from the commission.

Mr. Walt Baker, Director, Division of Water Quality, explained that the Division of Water Quality is supportive of independent and objective peer reviews of the scientific basis of agency projects. He does not think a panel of scientists from outside Utah should make decisions for Utah. He believes that a peer review should inform rather than suggest recommendations. He explained that the peer review process should be efficient. He said that peer review should be established in statute while the details should be specified in an administrative rule. He outlined the current process and how the peer review would function within it.

Mr. Baker summarized the elements of a good peer review process. He explained that reviewers should also be mutually agreed upon by the Division of Water Quality and the group that requests a peer review. He acknowledged the importance of protecting investments in water. He explained that the standards set by the Clean Water Act in 1972 and the updates to Utah water that came as a result, will not be sufficient for the 21st century. He discussed the risk of algae in Utah's waters and the need to have scientific solutions for moderate improvements. He answered questions from the commission.

## **6. Other Items**

No additional items were discussed.

## **7. Adjourn**

**MOTION:** Sen. Iwamoto moved to adjourn the meeting. The motion passed unanimously with Sen. Hinkins, Sen. Van Tassell, Rep. Brown, Rep. Froerer, Rep. Ipson, and Rep. Noel absent for the vote.

Chair Grover adjourned the meeting at 5:11 p.m.